

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

APPLICANT: BAYER et al.

DATE: May 3, 2007

SERIAL NO.: 10/806,026

GROUP ART UNIT: 1713

FILED: 03/22/2004

EXAMINER: Lipman, Bernard

FOR: THERMOPLASTIC RAILROAD CROSS-TIES

ATTORNEY DOCKET NO.: C04057US (88155.2C)

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**RESPONSE**

MAIL STOP RESPONSE

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

This is a response to the final Office Action dated January 11, 2007. A shortened statutory period was set to expire three months from the date of the Office Action, making a response due by April 11, 2007. Applicants petition the Office for an extension of time of one (1) month to respond, making the response due May 11, 2007.

**REMARKS**

Claims 36-39, 44-47, and 64-74 are pending in the application.

Claims 36-39, 44-47, and 64-74 were rejected under 35 U.S.C. §103(a) as being unpatentable over March or Nosker, each further taken with Machi or Armenti in view of Buckett or Hill. Applicants respectfully traverse the rejection.

Applicants thank the Examiner for pointing out that:

- (1) March and Nosker are deficient in not specifically disclosing (i) calcium sulfate with a purity of 50 to 99 wt. % as the filler, or (ii) the calcium sulfate filler is a fertilizer by-product;
- (2) March and Nosker, each further taken with Machi or Armenti, are deficient in not teaching a composition or process which includes admixture of epoxidized soybean oil prior to the melt processing of the composition; and,